

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MC ALLEN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 7:16-CR-00876-11
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	McAllen, Texas
	)	
OMAR VAZQUEZ-AVENDANO,	)	Thursday, September 14, 2017
	)	(9:26 a.m. to 9:54 a.m.)
<u>Defendant.</u>	)	

SENTENCING

BEFORE THE HONORABLE RANDY CRANE,  
UNITED STATES DISTRICT JUDGE

Appearances:	See Next Page
Interpreter:	Elena Medrano
Court Recorder:	Rick Rodriguez
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ORIGINAL AND ONE COPY AT THE OFFICIAL RATE.  
General Order 94-15, United States District Court,  
Southern District of Texas.**

Proceedings recorded by electronic sound recording;  
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1 McAllen, Texas; Thursday, September 14, 2017; 9:26 a.m.

2 Call to Order

3 (Official Interpreter Utilized for Translation)

4 THE COURT: I'm going to start with 16-cr-00876-11,  
5 USA versus Omar Vazquez-Avendano.

6 MS. PROFIT: The Government is present and ready,  
7 your Honor.

8 MR. WOMACK: Your Honor, Defense is present and  
9 ready, Guy Womack for Mr. Vazquez.

10 Your Honor, one of the issues in the case, however,  
11 -- well, a couple of issues in the case --

12 THE COURT: Uh-huh (yes.)

13 MR. WOMACK: -- is his role relevant to the Romans  
14 and Ramos --

15 THE COURT: Right.

16 MR. WOMACK: -- so it may be easier for your Honor to  
17 do them all at the same time. We don't want to delay.

18 THE COURT: Uh-huh (yes.)

19 MR. WOMACK: I'm not sure we should ever -- for your  
20 Honor to take them all in the right sequence.

21 THE COURT: They are going to be all done today, this  
22 morning --

23 MR. WOMACK: Well --

24 THE COURT: No, he just needed some time to go over a  
25 sentencing issue, not that -- his case is not getting

1 continued.

2 **MR. WOMACK:** We're ready, Judge.

3 **THE COURT:** All right. And that is sort of -- I  
4 mean, you bring up sort of the bigger issue here is their role  
5 relative to each other is significant because it drives some of  
6 the points here and so that's why I chose to start with Mr.  
7 Vazquez because my perception from reading the Presentence  
8 Report is that he -- in the hierarchy on the Chicago side he's  
9 fairly high up there, but I know you dispute that and we'll get  
10 into that. Let me ask your client some preliminary questions  
11 first.

12 Mr. Vazquez, did you get a chance to review your  
13 Presentence Report with your lawyer?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** Do you have any questions about it?

16 **THE DEFENDANT:** No.

17 **THE COURT:** I know you disagree about some of the  
18 characterization of you, but was everything in the Presentence  
19 Report correct about you biographically?

20 **THE DEFENDANT:** Yes. (per log notes)

21 **THE COURT:** All right. So, let's see, the third  
22 acceptance point off, does the Government move for that point  
23 off?

24 **MS. PROFIT:** Yes, the Government moves for that point  
25 off.

1           **THE COURT:** Which I grant.

2           All right, I don't know where you'd like to begin --

3           **MR. WOMACK:** Yes, your Honor. One thing is we  
4 believe that if your findings agree with us he'd be eligible  
5 for the safety valve and the extra two points there, but --

6           **THE COURT:** Okay, so -- we'll get to that. That's  
7 dependent on a couple of findings which you're going to have a  
8 tough time convincing the Court, but I'm open-minded to hear  
9 your version.

10          **MR. WOMACK:** With regards to leadership --

11          **THE COURT:** Uh-huh (yes.)

12          **MR. WOMACK:** -- Mr. Vazquez would buy cocaine from  
13 Lechuga. It would be shipped to Chicago and he would sell it  
14 at a profit.

15               The Romans and Ramos were identical. At the time  
16 that Moises Ramos was arrested he, in fact, told the  
17 Government, it's in their file, that he had not even seen or  
18 had contact with Omar Vazquez for over five years.

19               The Government believes -- and I guess through the  
20 government file, the Government had -- the Government has been  
21 working very hard and they had done a number of things  
22 including getting orders to follow telephones by their GPS  
23 tracking. And in the report they have a specific phone number,  
24 they had the order to follow and they said "Oh, that's the  
25 phone of Omar Vazquez" and they followed it all over Chicago

1 for a period of days or weeks. When they finally followed the  
2 phone to a house and -- and discovered drugs there and other  
3 things it was one of the Roman's, it was their phone. It was  
4 never Omar Vazquez's phone.

5 **THE COURT:** Uh-huh (yes.)

6 **MR. WOMACK:** The Government erroneously believed that  
7 a person that had been charged to their phone was Omar Vazquez,  
8 and they proved scientifically and then audibly on the scene  
9 that it was actually one of the Romans that they were -- had  
10 their phone the whole time, and they found the phone in his  
11 pocket, they found drugs in the house. I don't remember if it  
12 was Jose or Rodrigo, I think it was Rodrigo, but I may be  
13 wrong, but it was one of the Romans.

14 **THE COURT:** Uh-huh (yes.)

15 **MR. WOMACK:** Your Honor, all of them obtained cocaine  
16 and they all sold it --

17 **THE COURT:** But weren't they --

18 **MR. WOMACK:** -- but none of them worked for Omar  
19 Vazquez.

20 **THE COURT:** But they were all obtaining their cocaine  
21 from Mr. Vazquez or through Mr. Vazquez. I mean, he -- he's  
22 sort of the warehouseman --

23 **MR. WOMACK:** He didn't --

24 **THE COURT:** I mean -- I mean, it's always a chain. I  
25 mean, it starts in wherever, Columbia, and here was funneled

1 through Lechuga and his contacts, I mean, his counterpart in  
2 Mexico, and they were both distributors so Lechuga had a  
3 transportation cell he worked with, maybe more than one cell  
4 and he had various distribution networks and my understanding  
5 is that Mr. Vazquez was his Chicago distribution network that  
6 he would funnel the cocaine up to Mr. Vazquez in Chicago and  
7 then Mr. Vazquez would essentially distribute it to people that  
8 he knew that could store it and sell it and those were Rod --  
9 the Roman brothers, Mr. Ramos, others -- let's see, Mr. Cadena  
10 and -- and others.

11 **MR. WOMACK:** Your Honor, the other two, this Cadena,  
12 I think, and maybe Cepeda (phonetic) --

13 **THE COURT:** Uh-huh (yes.)

14 **MR. WOMACK:** -- I mean, I may have them wrong, these  
15 other two people have never met Omar Vazquez, he doesn't know  
16 them and there's no allegation of that. I think they were from  
17 Texas, but they were shipping drugs. And there are two ways to  
18 resolve that -- I mean, to look at this.

19 **THE COURT:** Uh-huh (yes.) Well, so let's --

20 **MR. WOMACK:** Omar Vazquez may have sold some cocaine  
21 to the Romans and Ramos, that doesn't make him their leader, he  
22 sold to them.

23 And -- and, but overall they were co-equals, the  
24 Romans and Ramos were obtaining the drugs from Lechuga -- now  
25 maybe it was all shipped to Chicago and they all split it up, I

1 think that's what the evidence shows such as the seizure in  
2 June of 2016 where there's 120 kilos, that's Count Five of the  
3 Superseding Indictment.

4 **THE COURT:** Uh-huh (yes.)

5 **MR. WOMACK:** That 120 kilos, only 20 percent of that,  
6 one-fifth of that, was going to Omar Vazquez. The Government  
7 knows this, they know with the debriefings, from their  
8 evidence, that 24 kilos out of 120, 24 was going to Omar  
9 Vazquez. He had no interest in the other quantity at all,  
10 another 96 kilos.

11 They were co-equals, they weren't -- none of these  
12 people worked for him or took directions from Omar Vazquez.  
13 That's why the Government would have, and will tell you they  
14 have no text messages -- they have millions of text messages,  
15 they have none, to my knowledge, between Omar Vazquez and  
16 either the Romans or Ramos, they do have between him and  
17 Lechuga.

18 **MS. PROFIT:** Which is very telling, your Honor, the  
19 fact that he was in communication with Lechuga and, in fact, I  
20 believe that he in -- in these communications had complained  
21 about the fact that certain loads had been taken down.

22 And he also, with Lechuga, made plans for taking  
23 cocaine to other locations after the Romans had been raided in  
24 November, so there's a very close relationship with Mr. Vazquez  
25 and Mr. Lechuga that comes through in the text messages. And



1 it certainly establishes the fact that Mr. Vazquez is not just  
2 some simple little supplier, but has a much closer relationship  
3 with Lechuga and a much higher relationship in terms of the  
4 hierarchy than someone who is just a mere street level  
5 distributor. He was a higher level distributor and the  
6 information that we have is that the Romans were working for  
7 him. And Moises Ramos was working for one of the Romans. So  
8 in the hierarchy he was in a higher position.

9           With respect to the 120 keys it's true that the  
10 information that we have is that he was only receiving 24 of  
11 that particular 120 kilos, but it does not mean that he was no  
12 part of and did not have knowledge of a larger conspiracy  
13 involving larger quantities of cocaine and --

14           **THE COURT:** My impression was that that was a mixed  
15 load. I remember the different imprints on the cocaine. My  
16 impression was that maybe it wasn't all Lechugas but the same  
17 transportation cell was distributing it, or was it all  
18 Lechugas, it just maybe was some of it was Gulf Cartel, some of  
19 it was Sinaloa or something, or --

20           **MS. PROFIT:** I think it came from a variety of  
21 places, but I believe that it was all Lechugas. And that does  
22 not account for the fact that we had cocaine that was  
23 reassigned, as it were, after the -- after there was the raid  
24 at Jose Roman's place in November. And they sent it to  
25 different locations because they were actually expecting more.

1 And that would be Omar Vazquez and that would be Jose Roman.

2 **MR. WOMACK:** None of which implies leadership, your  
3 Honor. The fact that some --

4 **MS. PROFIT:** No, but it certainly implies leadership  
5 that he is in communications with Lechuga, who's very high up  
6 in the command cell, but it's him that he's communicating with  
7 directly, and then he had these other individuals that are  
8 picking up cocaine. And when he learns that there has been a  
9 raid then he had to take action and advise Lechuga about, that  
10 there is heat in that area.

11 **THE COURT:** I mean, it only takes one subordinate to  
12 be a supervisor, it only takes one person under you whom you  
13 direct, you know, a driver to unload at a certain location,  
14 someone to secure a warehouse. I have no doubt Mr. Vazquez was  
15 directing other people. He -- he -- as you said, he bought  
16 cocaine and was selling it. Well, he had people that were  
17 selling it for him, he's not out himself fencing 24 kilos of  
18 cocaine, you know, on the Chicago street corner. I mean,  
19 there's no doubt he's overseeing others in this conspiracy --

20 **MS. PROFIT:** And he was --

21 **MR. WOMACK:** But there's no evidence of that, your  
22 Honor.

23 **MS. PROFIT:** Yes, there is evidence of that.

24 **MR. WOMACK:** Each of the Romans and the -- and I'm  
25 not saying it's okay, your Honor, I'm not saying it's all right

1 to buy and sell cocaine. He's pled guilty to a crime on that.

2 **THE COURT:** Uh-huh (yes.)

3 **MR. WOMACK:** But that's why he's not named in any of  
4 the other substantive Counts in the Indictment. He wasn't  
5 named in Count Five until the very end. The Government does  
6 not have him touching any of those drugs at all. These other  
7 people were buying and selling cocaine, he was buying and  
8 selling cocaine, but there was no evidence of him having any  
9 subordinates; in fact there are other people who were  
10 dealers --

11 **THE COURT:** Well, I would like to know his connection  
12 to the Romans, I mean, because -- I mean, he's --

13 **MS. PROFIT:** There is actually a familial connection  
14 to the Romans. There's a familial connection in the sense that  
15 he has been described as an uncle, but I don't think that he's  
16 actually an uncle, I think he's a second or third cousin, but  
17 there is a familial relationship.

18 **MR. WOMACK:** But --

19 **MS. PROFIT:** But when you look in terms of the  
20 documents you find that the house that's he's living in at one  
21 point in time belonged to Rodrigo Roman, and he would --  
22 depending on whose story you believe Rodrigo Roman was asked to  
23 put that house -- was asked to purchase that house because Mr.  
24 Vazquez did not have the kind of credit that would have allowed  
25 him to purchase that house. And then Mr. Vazquez failed to

1 make the payment and happened to be able to purchase the house  
2 in his wife's name at a foreclosure sale, but originally the  
3 property belonged to -- according to the -- according to the  
4 documentary records, belonged to Rodrigo Roman and belonged to  
5 -- also belonged to, I think, his father-in-law.

6 **THE COURT:** But you have no evidence of any  
7 communications between these individuals? I mean, you weren't  
8 able to, whatever, go up on the right phones or whatever?

9 **MS. PROFIT:** We did have -- we do have communications  
10 between them, but what we had was, certain samples, we had Jose  
11 Roman's number was passed with 100 -- was passed in the March  
12 seizures and that's how we were able to establish the March  
13 seizures was by setting up on -- setting up on Jose.

14 Now Jose Roman, there is a vehicle that is a Porsche  
15 that was found at Mr. Vazquez's house at the time of his  
16 arrest, and that Porsche vehicle is -- was registered to Jose  
17 Roman and it was not registered to Omar Vazquez, but it was at  
18 Omar Vazquez's garage, so there is a relationship between these  
19 people and there is a relationship in terms of the drugs.

20 And, frankly, at one point in time they identified  
21 Omar Vazquez as being their boss in terms of the earlier  
22 statements that they gave. So when Mr. Womack says that there  
23 is no evidence that's not true, there is evidence in terms of  
24 the statements of the co-Defendants that Omar was the  
25 individual that they were involved with.

1           **MR. WOMACK:** Your Honor asked a very direct question,  
2 was there any evidence of communication and the Government's  
3 answer was no, there was not. A cousin parking his car at  
4 one's house does not imply leadership. The fact that Roman --

5           **THE COURT:** Well, but it -- but it implies a  
6 connection. I mean, there is -- there is -- they're both in  
7 the drug trade, they're both, as you said, distributing or  
8 selling drugs that originated from Lechuga and so that's --  
9 from --

10           **MS. PROFIT:** But ironically I believe that that  
11 particular Porsche was driven by Mr. Vazquez's wife.

12           **MR. WOMACK:** I don't know and I really don't care, it  
13 doesn't imply leadership, your Honor. And that's the issue  
14 here.

15           **MS. PROFIT:** This issue --

16           **MR. WOMACK:** Maybe they are cousins, I think they  
17 are, but I don't know what the relation is. I thought they  
18 were uncle and nephew, if they're cousins that's fine, it's  
19 familial and the fact that they're co-drug dealers and when  
20 they get more than the other or whatever, there's no evidence  
21 of any subordinates working for Mr. Vazquez, only other drug  
22 dealers who happen to be (indisc.)

23           **MS. PROFIT:** Your Honor -- your Honor, what he's  
24 trying to move away from is the statements of the Defendants  
25 engaged through various points in the investigation --

1           **THE COURT:** That they did work for him.

2           **MS. PROFIT:** -- that Omar was the individual they  
3 worked for. He chose his words when he talked in terms of  
4 Moises Ramos very carefully because Moises Ramos, while he had  
5 not had direct contact with Omar Vazquez, had had -- believed  
6 through Jose Roman that Omar Vazquez was the person that was  
7 the supplier.

8           More to the point, Moises Ramos has had a  
9 relationship with Omar Vazquez five years before because he was  
10 his heroin supplier, and both cocaine and heroin were found  
11 with the cocaine -- which is the cocaine that was found with  
12 Jose Roman and Moises Ramos also had heroin.

13           **THE COURT:** All right. Let's -- what's your next --  
14 do you want to talk about --

15           **MR. WOMACK:** With regards to the firearms, your  
16 Honor, I think there were three firearms, I believe, found in  
17 the home of Rodrigo Roman. Again, there is no evidence of Mr.  
18 Vazquez ever being in that house --

19           **THE COURT:** Doesn't need to be.

20           **MR. WOMACK:** -- ever seeing the firearms, ever  
21 knowing there were firearms --

22           **THE COURT:** Doesn't need to. Doesn't have to,  
23 they're tools of the trade, they're foreseeable.

24           **MR. WOMACK:** But they weren't just tools of the  
25 trade. To be --

1           **THE COURT:** Well, he was part of the conspiracy --

2           **MS. PROFIT:** Your Honor --

3           **MR. WOMACK:** To be sentenced for that it should be  
4 that he knew of them, had something to do with them. There is  
5 no evidence he ever directed someone to have a firearm --

6           **THE COURT:** You know the law, you don't have to know  
7 that the guy in the seat next to you is carrying a concealed  
8 weapon when you're dropping off a load of marijuana. I mean,  
9 they're -- guns are always foreseeable in a drug case because  
10 they are considered tools of the trade.

11           Now you might still say do you not qualify if you  
12 didn't know the weapon, didn't touch the weapon, but it doesn't  
13 mean you don't get the enhancements.

14           **MR. WOMACK:** But here, it's very important, when they  
15 searched Mr. Vazquez's home, and Mr. Vazquez has no criminal  
16 record, he -- and he's a lawful permanent resident, he could  
17 have firearms legally in his home, he had none. They looked in  
18 his vehicles, they looked in his home, he didn't own any  
19 firearms and -- I believe that he could have --

20           **THE COURT:** Uh-huh (yes.)

21           **MR. WOMACK:** -- but there's nothing to suggest that  
22 he caused Rodrigo Roman -- or was even aware he had firearms,  
23 and it's not foreseeable that everyone that he know --

24           **THE COURT:** There is -- I mean, there's probably a  
25 dozen Fifth Circuit decisions right on that point, they're --

1 they're tools of the trade, they are foreseeable.

2 **MS. PROFIT:** Your Honor --

3 **THE COURT:** No, they don't have to -- if they're  
4 there you're out of luck, you're going to get tagged for that  
5 enhancement. Now you may still safety valve qualify, though.  
6 You wanted to obviously dispute something --

7 **MS. PROFIT:** Well, the fact -- well, the fact of the  
8 matter is that Rodrigo Roman just recently yesterday told the  
9 Government that those guns belonged to Omar Vazquez, and that  
10 they --

11 **THE COURT:** Well, I don't have any evidence of that.

12 **MS. PROFIT:** I know, but they were brought to the  
13 house by Jose -- Jose.

14 **THE COURT:** Yeah, he's sitting right over here.

15 **MS. PROFIT:** But -- but beyond that, your Honor --

16 **THE COURT:** But that would go to safety valve,  
17 whether he knew -- specifically knew about them. But they're  
18 always foreseeable.

19 **MS. PROFIT:** But the -- we also have it in -- and I  
20 have told Mr. Womack about this. We also had a communication  
21 between him and Mr. Lechuga when he, as Toro, was going to  
22 Mexico City and he specifically asked if Mr. Lechuga could get  
23 him a hard one (phonetic), which would be a long gun in Mexico  
24 City. Mr. Lechuga told him "I don't have one over there at  
25 this moment."



1 "Anything, but I have to have something within  
2 reach," that's Mr. Omar Vazquez.

3 "Yes, let me talk to a buddy to see if he can give  
4 you something so that you can carry a short one" which would be  
5 a pistol with a permit.

6 So there has been -- in other words when he -- when  
7 you say that he has no knowledge of that we do have transcripts  
8 that suggest that when -- at least when he was going to Mexico  
9 City in terms of drug trafficking that he was looking to  
10 prepare himself and to make sure that he had a weapon in Mexico  
11 City which Mexico, of course, is -- does not -- does not allow  
12 firearms.

13 **MR. WOMACK:** And that was --

14 **MS. PROFIT:** And I -- I think that the objection is  
15 not well taken in this particular case, and when you say that  
16 he has no criminal history I would remind the Court that while  
17 Mr. Vazquez has no convictions --

18 **THE COURT:** Right, convictions, I know, as --

19 **MS. PROFIT:** -- he has a substantial criminal  
20 history --

21 **THE COURT:** Correct, I'm aware of that.

22 **MS. PROFIT:** -- in terms of arrests for drug  
23 trafficking.

24 **THE COURT:** I'm aware of that.

25 **MR. WOMACK:** Your Honor, the context of the firearm

1 thing in Mexico, and the Government and I have discussed it and  
2 I think we all agree, that was for his safety --

3 **THE COURT:** Uh-huh (yes.)

4 **MR. WOMACK:** -- in Mexico. None of us would want to  
5 go to Mexico unarmed. I wouldn't want to go unless I had  
6 agents with me protecting me and the Government is the same  
7 way. The oil men that go into Mexico never go or send their  
8 families to Mexico without having armed guards parading them  
9 around town so --

10 **THE COURT:** All right, so your objection is that it  
11 -- the objection is that it wasn't foreseeable that the Romans  
12 had weapons involved in -- in drug trafficking and I overrule  
13 that objection, it's well settled law in the Circuits that guns  
14 are always foreseeable in drug trafficking offenses as they are  
15 tools of the trade.

16 **MR. WOMACK:** And so, beyond that, then the other  
17 objections would be that if you ruled in our favor on these  
18 where he would otherwise be eligible for the safety valve, he  
19 has qualified in all of the other ways --

20 **THE COURT:** All right.

21 **MR. WOMACK:** -- and I think the Government would  
22 vouch for that. And so if he were eligible for the safety  
23 valve, if these two problems, leadership and firearms didn't  
24 disqualify him he would be eligible for the safety valve.

25 **THE COURT:** Right. And I'm not suggesting the

1 firearms disqualifies him from safety valve because you can  
2 still get the enhancements and be given safety valve points  
3 off, I've done that in appropriate cases, but you still get the  
4 two point enhancement, though --

5 **MR. WOMACK:** And we're asking --

6 **THE COURT:** -- and that's all I'm addressing now is  
7 that you do get the two point enhancement.

8 **MR. WOMACK:** I understand.

9 **THE COURT:** I don't reach the other safety valve -- I  
10 don't need to reach the other safety because I'm also finding  
11 that he was a supervisor at a minimum in this large drug  
12 trafficking network.

13 **MR. WOMACK:** And those were the objections that  
14 affected the guidelines, your Honor.

15 **THE COURT:** Correct. All right, anything else you  
16 wanted to add aside from objections that you want to -- I mean,  
17 I know a lot about Mr. Vazquez because we had that hearing, but  
18 any 3553(a) things you want me to consider? I did read letters  
19 from his children and his spouse.

20 **MR. WOMACK:** Yes, your Honor, I have some, his wife  
21 and his children, his two step-children and his two biological.

22 **THE COURT:** Yes.

23 **MR. WOMACK:** And his wife.

24 **THE COURT:** All right. So, Mr. Vazquez, you get to  
25 speak here before I sentence you. If there's anything that

1 you'd like for me to consider now is your chance to speak as  
2 well.

3 **MR. WOMACK:** Speak up.

4 **THE DEFENDANT: (Through interpreter)** Yes, your  
5 Honor. First of all I ask this country to forgive me for  
6 wasting the opportunity that it offered me.

7 And I want to apologize to the Court, I know what I  
8 did was really bad and wrong and I'm paying for it. I ask you  
9 to please have some consideration for me, for my family and  
10 children. They need me out there and I'm paying a very high  
11 price for my crime. I ask you for that consideration. I would  
12 like to go back to my family. I have learned my lessons that  
13 (indisc.) and God blessings that this has brought about.

14 **THE COURT:** All right. I'm sorry that you made these  
15 poor choices as well. As you know you're going to be deported  
16 to Mexico, you'll lose your status to be here. You're going to  
17 have to make a life for yourself in Mexico, and your kids and  
18 family will just have to visit you down there.

19 Anything the Government would like to add?

20 **MS. PROFIT:** Your Honor, we do believe that Mr.  
21 Vazquez was a major player in this particular conspiracy.

22 **THE COURT:** I mean, I appreciate that you have that  
23 sentiment.

24 All right, so let me make my findings. I'm sorry,  
25 the third acceptance point, did --

1           **MS. PROFIT:** I moved for that, your Honor.

2           **THE COURT:** We did so, even though we had the  
3 suppression hearing, we --

4           **MS. PROFIT:** I -- yes, even though we had a  
5 suppression hearing I --

6           **THE COURT:** I mean, that's rather gratuitous because  
7 traditionally that's not what the Government does. If you have  
8 a suppression hearing you lose that third acceptance point.

9           **MR. WOMACK:** But it's appropriate here, your Honor,  
10 under these circumstances.

11           **MS. PROFIT:** Not necessarily, but at any rate we had  
12 agreed to it.

13           **THE COURT:** A deal's a deal so whatever went into --  
14 went into negotiating that I'm not privy to.

15           The Court adopts the factual finding contained within  
16 the Presentence Report. I find it correctly scored after  
17 granting off the third acceptance point leaving the Defendant  
18 at a Level 35, Criminal History Category I which is a range of  
19 168 to 210 months.

20           The Court considers those factors under 18 USC  
21 3553(a) and concludes that a sentence within these guidelines  
22 satisfies them. And, therefore, pursuant to the Sentencing  
23 Reform Act of 1984, it is the judgment of the Court the  
24 Defendant is committed to the custody of the Bureau of Prisons  
25 to be imprisoned for a term of 196 months.

1           Upon release from imprisonment the Defendant is  
2 placed on supervision for five years, which is mandatory.  
3 While on supervision he is not to commit any other Federal,  
4 State or local crime. He's to comply with the standard  
5 conditions adopted by this Court, abide by any mandatory  
6 conditions required by law.

7           In addition he's not to possess a firearm or other  
8 destructive device.

9           He's to cooperate in providing a DNA sample.

10           If deported supervision becomes inactive. If  
11 deported -- if deported during supervision, supervision becomes  
12 inactive. If the Defendant were to return to this country  
13 supervision would reactivate automatically at that time and the  
14 Defendant would be required to report to the nearest US  
15 Probation Office immediately.

16           I find Mr. Roman (sic) can no longer afford to pay a  
17 fine so I waive a fine -- I'm sorry, not Mr. Roman, I find the  
18 Defendant cannot afford to pay a fine so I waive a fine in his  
19 case, but Mr. Vazquez is assessed a \$100 special assessment  
20 which is payable immediately.

21           All right, he pled to just one Count so it's just a  
22 \$100 special assessment which is payable immediately.

23           Mr. Vazquez, this is your sentence. You can appeal  
24 it. You would have two weeks to do so. If you cannot afford  
25 the costs of appeal you could ask that I waive these costs of

1 an appeal.

2 Remaining Counts?

3 **MS. PROFIT:** The Government moves to dismiss the  
4 remaining Counts as to this Defendant, your Honor.

5 **THE COURT:** So ordered.

6 And I'll recommend he be placed in a facility in the  
7 Chicago area as was requested by his family.

8 **MR. WOMACK:** Thank you, Judge.

9 **THE COURT:** All right, best of luck to you, sir,  
10 and --

11 **MR. WOMACK:** I didn't catch the number of months?

12 **THE COURT:** One ninety-six.

13 **MR. WOMACK:** One ninety-six.

14 **THE COURT:** Yes. Did you want to make an additional  
15 objection since it wasn't --

16 **MR. WOMACK:** Well, only that your Honor -- it's not  
17 really an objection, but by him pleading guilty, by him coming  
18 here before the Court we think you should go lower than the  
19 guidelines or even a variance below it. He is diabetic. He  
20 does have a family and he --

21 **THE COURT:** Everybody here has family. I considered  
22 him, from everything I read, a major player. I mean, I know  
23 you're trying to minimize his role and that's your role as his  
24 Counsel, as his advocate, to minimize it. I consider him a  
25 long time, and based on prior arrests, a long time in the drug

1 trade. He's been -- the relevant conduct is a fraction of what  
2 he's actually done in his lifetime is my belief based on many,  
3 many years of overseeing these cases and I think that's a  
4 proportionate sentence to what others are going to be getting  
5 given his role in this conspiracy.

6 **MR. WOMACK:** So we would object to that part, your  
7 Honor. We do consider this so-called misconduct for which he  
8 was never convicted, never even tried, the cases were  
9 dismissed. You could also take that to mean he was innocent.

10 **THE COURT:** Absolutely, no doubt.

11 **MR. WOMACK:** And -- and --

12 **THE COURT:** I mean, those are not convictions.

13 **MR. WOMACK:** -- involved several years would be -- if  
14 the government followed (indisc.) he was (indisc.)

15 **MS. PROFIT:** Your Honor, even as a practical matter  
16 in this particular case they're focusing on the amount of dope  
17 at the scene. And during the course of the trial there was  
18 testimony that this organization was involved with 300 to 500  
19 kilos of cocaine a week, and we know from the intercepts that  
20 there was far more cocaine that was going to Chicago.

21 **THE COURT:** I only held him responsible for the  
22 relevant conduct identified in the Presentence Report and  
23 that's why he was at a Base Offense Level of 34. I could have,  
24 I believe, concluded relevant conduct was at a Base Offense  
25 Level of 38, I did not. This was within the Guideline



1 sentence.

2           **MR. WOMACK:** We understand that, your Honor, and it's  
3 just that -- as your Honor knows typically when someone does  
4 plead guilty often they -- you know, the Guidelines consider --  
5 consider all of the amount --

6           **THE COURT:** Yes. Yes.

7           **MR. WOMACK:** -- you know, (indisc.) 168 frankly would  
8 be too much and 196 is another three years on top of that.

9           **THE COURT:** I -- just given his significant role and  
10 my desire to give proportionate sentencing, that's, I felt was  
11 the correct sentence based on all of the 3553(a) factors and,  
12 again, it was within Guidelines.

13           All right, best of luck to you, sir, and you are  
14 excused at this time.

15           **MR. WOMACK:** Thank you, your Honor.

16           **(This proceeding was adjourned at 9:54 a.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read "Toni Hudson", is positioned above a horizontal line.

December 5, 2017

TONI HUDSON, TRANSCRIBER